

No. 11-55016

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Tarla Makaeff, Individually and on Behalf of All Others Similarly Situated,
Plaintiff-Counter-Defendant-Appellant

v.

Trump University, LLC
Defendant-Counter-Claimant-Appellee

**On Appeal from the United States District Court
Southern District of California
The Honorable Irma E. Gonzalez
District Court Case No. 3:10-cv-00940-IEG(WVG)**

**MOTION OF AMERICAN CIVIL LIBERTIES UNION OF
SAN DIEGO & IMPERIAL COUNTIES
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

DAVID BLAIR-LOY
ACLU Foundation of San Diego & Imperial Counties
P.O. Box 87131
San Diego, CA 92138-7131
(619) 232-2121

Attorney for *Amicus Curiae*

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Pursuant to Federal Rule of Appellate Procedure 29(b), the American Civil Liberties Union of San Diego & Imperial Counties (ACLU-SDIC) seeks permission to file the accompanying *amicus curiae* brief in support of reversal of the decision below. ACLU-SDIC sought consent of the parties to file this brief. Tarla Makaeff consented, but Trump University did not.

ACLU-SDIC is one of the local affiliates of the American Civil Liberties Union, a nationwide, nonprofit, nonpartisan organization dedicated to the principles of liberty and equality embodied in the Constitution, including freedom of speech. ACLU-SDIC has a strong interest in the outcome of these proceedings, as this Court's decision could have a significant impact upon the jurisprudence of free speech and the rights of consumers to speak out on issues of public concern.

The brief will aid the Court by discussing how the California anti-SLAPP statute, defamation law, and the First Amendment relate to one another in context of determining when a corporate entity is a public figure. It discusses the underpinnings of the relevant law and explains why considering Trump University to be a public figure serves the original purpose of the public figure rule and protects the free speech rights of consumers. ACLU-SDIC believes that the points

developed in the proposed brief will prove valuable to this Court because they amplify important free speech issues raised by Makaeff.

CONCLUSION

For the foregoing reasons, the Court is respectfully requested to grant leave to file the attached *amicus curiae* brief.

DATED: June 2, 2011

s/David Blair-Loy
David Blair-Loy